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PART I

SECTION 14. APPEALS AND GRIEVANCES

14-1 INTRODUCTION

(1) The FBI has always attempted to anticipate and avoid possible sources of employee discontent or grievances by following fair and objective policies, uniformly applied to all. To detect and solve grievances which might arise, the FBI depends upon the alertness of its supervisors and officials.

(2) The FBI is confident that its indoctrination and training programs ensure that each employee is fully aware that any grievance should be brought to the attention of their supervisor so that the matter may be discussed, explained and resolved. All employees should be aware that their division head or Special Agent in Charge is always available for further discussion with them of any problem which cannot be handled satisfactorily on the supervisory level; and that any problem which cannot be resolved satisfactorily on any lower level may be brought to the Director's attention in writing, or may be presented orally to an appropriate Bureau official.

(3) Other means by which employees may present their problems include the suggestion program or contact with the inspectors who periodically inspect each division or field office. In addition, certain formal procedures exist as set out in the subsections below.

[14-2 CONTESTING PERFORMANCE[APPRAISALS]

(See Part I, Section 5 of this manual)

14-3 POSITION CLASSIFICATION

Position classification decisions may be appealed in accordance with provisions of Title 5, Code of Federal Regulations, Chapter 1, Part 511. Supervisors should be alert for situations in which it appears an employee may be considering an appeal. Experience has shown that if a supervisor carefully explains to an employee the basis for a given classification action misunderstandings are averted. If difficulty persists in a given case, it may be feasible to take administrative steps, such as readjustment of work assignments, to eliminate it. FBIHQ should be notified of problems which resist settlement. If need arises, FBIHQ will furnish, upon request, the necessary instructions for filing classification appeals.

14-4 APPEAL RIGHTS14-4.1 Veteran's Appeal Rights

Section 14 of the Veterans' Preference Act of 1944 provides certain requirements which must be observed when a veteran who has completed a one-year probationary assignment in the Bureau is discharged, suspended for more than 14 days, or involuntarily reduced in grade or pay. See Part I, Section 13-10 of this manual.

14-4.2 Nonveteran's Appeal Rights

Recommendations for administrative action are made by a field office, headquarters division or the inspection staff and forwarded to the Personnel Section of the Administrative Services Division. The matter is

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reviewed there and a decision recommended. If, following review of the matter by the Assistant Director of that division, it is determined that administrative action is warranted, it is taken and the employee notified he/she may appeal the action to the Director. Adverse action means dismissal, reduction in grade or pay, or suspension exceeding 14 days. Should an employee be concerned about other administrative actions taken against him/her short of adverse action, employee may express this concern, through channels, to the Director.

[14-5 [CIVIL SERVICE REFORM ACT (PUBLIC LAW 95-454)]

[14-5.1 Public Law[95-454]

[[Public Law 95-454 provides the authority to grant grade retention for a period of 2 years and the authority for granting indefinite pay retention when an employee is demoted through no fault of his/her own. This is provided the demotion is not due to personal cause based upon conduct, character or inefficiency or at the employee's own request or consent.]

[14-5.2 [Requirement for Grade Retention]

[When an employee is demoted to a position which is lower graded than the position held immediately prior to demotion, as a result of a reduction-in-force or as a result of a reclassification process, he/she may qualify for grade retention. To qualify, the employee must have had served 52 consecutive weeks in the same agency in a grade or grades higher than the one to which demoted, and the position which is being reduced has to have been classified at the higher grade for a continuous period of at least one year immediately before the reduction.]

[14-5.3 [Requirement for Pay Retention]

[Pay retention shall apply to an employee whose rate of basic pay would otherwise be reduced as the result of the following: the expiration of a two-year period of grade retention; a reduction-in-force when the employee does not meet the eligibility requirements of grade retention; the reduction or elimination of scheduled rates; placement of an employee into a nonspecial rate position or into a lower special rate position from a special rate position; placement of an employee in a position in a lower wage area or in a position in a different pay schedule; or the placement of employee in a formal employee development program (upward mobility).]

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14-5.4 Appeals

The denial of grade or pay retention benefits can be appealed under some circumstances. See Title 5, Code of Federal Regulations, Chapter 1, Part 511, for appeal rights.

14-5.5 Temporary Promotion or Reassignment

Employee's entitlement to grade or pay retention is not affected by a temporary promotion or temporary reassignment. However, an employee serving under a temporary promotion or temporary reassignment may not retain a grade or rate of basic pay held during the temporary promotion or temporary reassignment.

14-5.6 Wage Board Employees

Similar salary retention provisions apply to Wage Board employees.

14-6 WITHIN-GRADE INCREASE

An employee who is denied a within-grade increase because of failure to perform at an acceptable level of competence may request reconsideration of the Bureau's action by filing a written request within 15 calendar days after receiving the denial notification. FBIHQ will review the request and advise the employee of its determination. If the denial is reaffirmed by FBIHQ, the employee may, within 15 calendar days of notification, appeal in writing to the Merit Systems Protection Board, which has final decision authority.

[[14-7 SUPPORT PROMOTION AND PLACEMENT

[Refer to MAOP, Part I, Section 7-14.]